

**BEFORE THE
NATURAL RESOURCES COMMISSION
OF THE
STATE OF INDIANA**

IN THE MATTER OF:

RULE AMENDMENTS GOVERNING) **Administrative Cause**
POSSESSION LIMITS) **Number 11-053D**
) **(LSA Document # 10-470 (F))**

**REPORT ON RULE PROCESSING, CONSIDERATION OF PUBLIC COMMENTS,
ANALYSIS AND RECOMMENDATION REGARDING FINAL ADOPTION**

1. RULE PROCESSING

For consideration is a proposal to amend 312 IAC 9-2-8 governing possession restrictions for wild animals except white-tailed deer and wild turkeys, and 312 IAC 9-4-7.5 governing possession restrictions for nonmigratory game birds. Proposed amendments to 312 IAC 9-4-7.5 establish a taking period and clarify the limit to the number of reptiles and amphibians that may be taken from the wild as well as clarify the possession restrictions for reptiles and amphibians. The proposal also seeks to add definitions of “possession limit”, “primary residence”, and “processed” at 312 IAC 9-1-12.1, 312 IAC 9-1-12.5 and 312 IAC 9-1-12.6, respectively.

The Natural Resources Commission (*NRC*) granted preliminary adoption of this rule amendment proposal on July 19, 2011.

The “Notice of Intent” to adopt the proposed rule amendment was posted to the INDIANA REGISTER database website as 20110831-IR-312110470NIA on August 31, 2010. The notice identified Linnea Petercheff, Department of Natural Resources, Division of Fish and Wildlife, as the “small business regulatory coordinator” for purposes of Indiana Code § 4-22-2-28.1.

As specified by Executive Order, proposed fiscal analyses of the rule proposal were submitted, along with a copy of the proposed rule language and a copy of the posted Notice of Intent, to the Office of Management and Budget on September 9, 2011. In a letter dated September 28, 2011, Adam. M. Horst, Director, Office of Management and Budget, recommended that the proposed rule amendments be approved.

The NRC Division of Hearings submitted the rule proposal to the Legislative Services Agency (*LSA*) along with the “Statement Concerning Rules Affecting Small Business” (also known as

the “Economic Impact Statement”) on October 5, 2011. The Notice of Public Hearing was submitted to LSA on October 12, 2011. The Notice of Public Hearing, along with the Economic Impact Statement and the text of the proposed rule was posted to the INDIANA REGISTER database website on October 19, 2011 as 20111019-IR-312110470PHA. Following receipt of an “Authorization to Proceed” from LSA on October 12, 2011, the NRC Division of Hearings also caused a Notice of Public Hearing to be published by the Indianapolis Newspapers, a newspaper of general circulation in Marion County, Indiana, on October 24, 2011. In addition, notice of the public hearing and a summary of the proposed rule changes were published on the NRC’s web-based electronic calendar.

2. REPORT OF PUBLIC HEARING AND COMMENTS

a) Public Hearing Comments

Public hearings were conducted as scheduled on December 1, 2011 at the Spring Mill Inn located in the Spring Mill State Park in Mitchell, Indiana and on December 6, 2011 at the Peru Public Library located in Peru, Indiana. Sandra Jensen served as the hearing officer. Linnea Petercheff participated on behalf of the Department of Natural Resources Division of Fish and Wildlife and Col. Scotty Wilson participated on behalf of the Department of Natural Resources Division of Law Enforcement. Two individuals attended the December 1, 2011 public hearing while three individuals participated in the December 6, 2011 public hearing. A summary of the comments received have been attached as Exhibit A, which is incorporated by reference.

b) Comments Received Outside Public Hearing

Written public comments were received from approximately July 19, 2011 until December 12, 2011. The written comments have been attached to this report as Exhibit B, which is incorporated by reference.

c) Response by the Department of Natural Resources

The Department responded to the public comments on December 19, 2011. A copy of the Department’s response is attached as Exhibit C, which is incorporated by reference.

3. ANALYSIS AND RECOMMENDATION

The rule amendment proposed is an effort to more clearly define possession limits by identifying the point in time that a legally taken wild animal is counted for purposes of the possession limit and the point in time that the same legally taken wild animal is no longer counted for purposes of the possession limit. The need for this rule amendment is evidenced by inquiries from hunters who ask, for example, whether game stored in the freezer from the previous hunting season is

counted toward the possession limit in the current hunting season. The Department placed even greater emphasis on developing this proposed rule following a survey of its conservation officers that revealed the existence of “different interpretations” and that the occasional delivery of “sometimes conflicting opinions” to the public.

This proposal does not alter the existing possession limit of two times the daily bag limit. Instead, this proposed rule amendment will make clear that once a legally taken wild animal has been “processed” and stored at the hunter’s “primary residence” it no longer will be counted toward the “possession limit”.

This rule amendment is necessary for the purpose of providing clear regulations to the public and for enhanced enforcement ability for the Department’s conservation officers.

The overwhelming majority of the comments received applaud the effort put forth in developing this proposed rule.

The Indiana Wildlife Federation (IWF) submitted a written comment in opposition to the proposed rule amendment. The IWF believes the proposed rule “redefines” possession limits inferring that there is a long-standing history of interpreting the current possession limits to count game in the possession limit until the game is consumed or gifted to another person. The IWF expressly requested the Department and Commission to adopt “the approach that possession of wild game ends when the game is either consumed or gifted to another person.”

The Department offers in its response that the establishment of daily bag limits “are the tools for managing wildlife populations” noting that the bag limits were established and can be modified based upon wildlife management needs. The Department explains that the possession limit was never designed to be a further limitation on the number of wild animals taken during a season but was designed to assist in the enforcement of bag limits. The Department also notes the ease with which a hunter could, either actually or deceptively, gift lawfully taken wild animals or simply waste them in order to avoid exceeding the possession limits.

Another comment, received in writing from John Donaldson (following up from the joint comment of Mr. Donaldson, Cy Howell and Gregg Wilkinson at the December 6, 2011 public hearing) offers that the tagging requirements set forth at 312 IAC 9-2-8(f) are too restrictive and technical.

The existing rule requires the tagging of a taken wild animal at any time the person who took the wild animal does not maintain actual possession of the animal. The proposed amendment actually lessens the burden associated with tagging by allowing the person who took the wild animal to avoid tagging the animal unless the animal carcass will be left unattended or outside

the immediate vicinity of the person who took it. As the Department explains in its response the necessity to have taken wild animals tagged is crucial to the enforcement of both daily bag limits and possession limits. The Department also notes that the existing tagging requirements have been in place for many years. The removal of the tagging requirements is not appropriate and the complete removal of the tagging requirements is beyond the scope of the proposed rule language as published.

The hearing officer recommends that the rule language, as published, which is attached at Exhibit D, and incorporated by reference, be granted final adoption without revision.

Dated: December 21, 2011

Sandra L. Jensen
Hearing Officer

EXHIBIT A

PUBLIC HEARING COMMENT SUMMARY

December 1, 2011, Spring Mill State Park

Elden and Barbara Colber, Dubois County, Indiana

Both Elden and Barbara Colber offered support for the proposed rule.

December 6, 2011, Peru Public Library

John Donaldson, Miami County, Indiana; Cy Howell, Miami County, Indiana and Gregg Wilkinson, Miami County, Indiana

Mr. Donaldson, Mr. Howell and Mr. Wilkinson reported that they were each members of Quail Forever. They joined together in making an inquiries and comments about the amendment to 312 IAC 9-2-8(f) that addresses tagging requirements for wild animals that are gifted, left unattended in the field or are otherwise not in the immediate vicinity of the hunter who took the animal.

Initially they questioned whether they were required to tag a wild animal that had been dressed out if they gave it to a family member. The hearing officer, along with Linnea Petercheff and Col. Scotty Wilson, expressed the opinion that the present wording of the rule would require them to provide the specified information on the container or bag containing the animal(s) that they gave to another person.

These gentlemen further offered the scenario that a hunter hunting in one field takes two quail and puts them in the truck before travelling to another field to continue hunting. They inquired whether they were required to tag the two quail in the truck with the specified information before leaving the truck. The hearing officer, again with the assistance of Petercheff and Wilson, answered in the affirmative. The hearing officer elaborated that the rule amendment actual lessens the stringency of the existing rule observing that presently an animal taken must be tagged if the animal is not in the hunter's actual physical possession. With the proposed amendment as long as the animal taken is in the hunter's immediate vicinity it is not required to be tagged.

The gentlemen were advised that any revision of the existing proposed rule would have to be supported by a written comment and invited them to submit a written comment not later than December 12, 2011 if they wished to have the Department and the Commission further consider any revision. The gentlemen were advised that a written comment could be submitted by regular

mail or through the Division of Hearing's online comment form and they were provided both the regular mail address and website address.

EXHIBIT B

WRITTEN PUBLIC COMMENTS

Commentor Name Richard Dennis Parker

Commentor County 7

Commentor State IN

Commentor City Morgantown

Commentor Organization

Commentor Email [Email Commentor](#)

Comment Possession limits for small game should not include animals processed for consumption and stored at a primary residence. To do so penalizes successful small game hunters by limiting their time afield.

Time stamp 08/11/2011 11:11:27 AM

Commentor Name John E. Plowman

Commentor County 66

Commentor State IN

Commentor City Winamac

Commentor Organization

Commentor Email [Email Commentor](#)

Comment I welcome this rule change and it will allow anglers the opportunity to enjoy fish throughout the year without the question of having too many fish in their freezers. I have been confused about the rule myself, and this makes it crystal clear what I can and cannot possess in my freezer.

Time stamp 08/11/2011 11:40:58 AM

Commentor Name Joel Nute

Commentor County 18

Commentor State IN

Commentor City Muncie

Commentor Organization

Commentor Email [Email Commentor](#)

Comment There should only be a daily limit and the animals at your home should not count toward any type of limit. Set the daily limit to the right level, and then the rest should not matter.

Time stamp 08/11/2011 11:48:41 AM

Commentor Name Clarence (Woody) Williams

Commentor County 87

Commentor State IN

Commentor City Newburgh

Commentor Organization Hunting Indiana

Commentor Email [Email Commentor](#)

Comment I am 100 percent in favor of clarifying the possession rule as proposed.

A much discussed item on my website is what constitutes "baiting:". I would like to see a clarification of the "baiting rules".

Thank you,

Clarence (Woody) Williams

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Time stamp 08/11/2011 05:04:34 PM

Commentor Name Joshua Bokish

Commentor County 49

Commentor State IN

Commentor City Indianapolis

Commentor Organization

Commentor Email [Email Commentor](#)

Comment I am glad that the possession limit is now being clearly defined. This definition makes sense and will clear up the confusion this has caused in the past. Glad to know I will be able to store more in the freezer for use throughout the following year rather than having to consume them before being able to hunt again.

Time stamp 08/12/2011 05:04:26 AM

Commentor Name Mark Fink

Commentor County 32

Commentor State IN

Commentor City Pittsboro

Commentor Organization

Commentor Email [Email Commentor](#)

Comment Thank you for changing the Wild Animal Possession Limit rules so that they are easier to understand and comply with...a much needed change for the better, well done!

Time stamp 08/12/2011 09:25:08 AM

Commentor Name David R. Gutgsell

Commentor County 19

Commentor State IN

Commentor City Jasper

Commentor Organization private land owner

Commentor Email [Email Commentor](#)

Comment I feel that in abundant years there should be an option available to the DNR to override the possession rule (not the daily limit) on certain species. Most sportsmen understand that if they abuse the rules it will hurt the population the following year so the DNR would have to work with the sportsmen for that particular specie to help determine the when to invoke the rule change for that season. Let responsible hunters help determine the rule change. Most serious hunters do scouting before the season opens and a determination could be made at that time. Do this by county or region. I think this would helpful for everyone involved to keep a balanced population.

Time stamp 08/12/2011 07:54:15 PM

<p>Commentor Name Edward Hutzel Commentor County 49 Commentor State IN Commentor City indianapolis Commentor Organization Commentor Email Email Commentor Comment I have been hunting in indiana since i was 8 yers old andthe "daily " bag limit rule was understood by me to mean : the amount of game i can take legally in 1 day, if i decide to keep 2 processed rabbits in my freezer and go hunting tomorrow i can legally take 5 more rabbits the next day. that is the understanding i have carried with me in the field for 35 years. to simply say i can not freeze processed game that i take today and can not go hunting again untill that game has been eaten is simply propostorus. the law states "daily" bag limit. Time stamp 08/13/2011 12:18:15 PM</p>
<p>Commentor Name James E. Dye Commentor County 48 Commentor State IN Commentor City Anderson Commentor Organization Commentor Email Email Commentor Comment This sounds good for the hunters as the may have meat that has been processed. And the hunter will be able to hunt more often if he chooses to hunt the differen seasons, ie: bow, muzzle loader and firearm seasons. Time stamp 08/14/2011 03:18:56 AM</p>
<p>Commentor Name Mary Dian Williams Commentor County 52 Commentor State IN Commentor City Denver Commentor Organization Commentor Email Email Commentor Comment I would love to see the rules more user friendly, for example we have 4 hunters in my family, does that mean we can 5 squirrels or 20 in the freezer? Time stamp 08/15/2011 07:24:43 AM</p>
<p>Commentor Name Ryan Hallows Commentor County 53 Commentor State IN Commentor City Bloomington Commentor Organization Indiana Falconer's Association Commentor Email Email Commentor Comment I have read and support the proposed changes/amendments to the Wild Animal Possession Limit Policy. Time stamp 08/16/2011 06:51:29 AM</p>
<p>Commentor Name Robert Alan Pope, Jr. Commentor County 53 Commentor State IN</p>

Commentor City Bloomington
 Commentor Organization Indiana Falconers Association
 Commentor Email [Email Commentor](#)
 Comment On behalf of the Indiana Falconers Association, I am pleased to express support for the language of the proposed rule. Clarification of the "grey" areas of possession is a much needed service to Indiana citizens who participate in hunting/fishing sports and which to be compliant with prevailing laws. We applaud the DNR for making this clarification to the regulations in a practical, reasonable and understandable manner.

Thank you,

Alan Pope
 President
 Indiana Falconers Association
 Time stamp 08/16/2011 08:05:33 AM

Commentor Name Jeff Armstrong
 Commentor County 37
 Commentor State IN
 Commentor City Wheatfield
 Commentor Organization Indiana Nature
 Commentor Email [Email Commentor](#)
 Comment Its about time this rule was made right.
 Time stamp 08/31/2011 01:19:20 PM

Commentor Name Jason Carl Brown
 Commentor County 14
 Commentor State IN
 Commentor City Washington
 Commentor Organization
 Commentor Email [Email Commentor](#)
 Comment It's about time this rule got straightened out. Good job.
 Time stamp 09/22/2011 06:06:40 AM

Commentor Name greg delawter
 Commentor County 49
 Commentor State IN
 Commentor City indianapolis
 Commentor Organization
 Commentor Email [Email Commentor](#)
 Comment I disagree with the wild animal possession limit being reduced to equal 2 days limit. This rule would only make sense if the season was 2 days long. I oppose this proposed change!
 Time stamp 10/27/2011 01:16:26 PM

Commentor Name Stuart Grell
 Commentor County 23
 Commentor State IN
 Commentor City Attica
 Commentor Organization Indiana State Trappers Association

Commentor Email [Email Commentor](#)

Comment Page 5

312 IAC 9-5-6

Authority: IC 14-22

Sec. 6 , (h), (1). A trap, a net, or another mechanical device that has no opening below the surface of the water.

Typical turtle "nets" have an opening under the water. We bait the traps and the bait is also under the water. The turtle crawls in the trap under water. We always leave the end of the trap at least 3 or more inches above the water surface for them to breathe. Would your verbiage prohibit this type trap? I thought that our law used to specify that a turtle trap had to be partly out of the water.

Time stamp 10/28/2011 12:29:25 PM

Commentor Name Jim Shelton

Commentor County 52

Commentor State IN

Commentor City Peru

Commentor Organization

Commentor Email [Email Commentor](#)

Comment You professional wildlife officers are the experts. I don't know why there is so much need for comments and meetings. Just do what is best for Indiana's wildlife along the guidelines that other state's already use...

Time stamp 10/30/2011 11:21:20 AM

December 7, 2011

Re: LSA Document #11-470 Proposed Rule - 312 IAC 9-2-8 Possession restrictions

To the Natural Resources Commission:

The Indiana Wildlife Federation is a broad based coalition of conservationists throughout the State of Indiana, and has long been an advocate for wise use of our State's natural resources and wildlife. Never has there been a more critical time in our state's history that wildlife and natural resources have faced such challenges. As human population grows and wildlife habitat shrinks, many wildlife populations continue to decline, including game species such as quail, ruffed grouse, and other small game. It is for this reason we oppose a portion of the proposed changes to the definition of possession limits.

We appreciate the opportunity to provide the following comments regarding amendments to 312 IAC 9-2-8 Possession restrictions. The Indiana Wildlife Federation supports the approach that possession of wild game ends when the game is either consumed or gifted to another person. To that end, we strongly urge the Natural Resources Commission to amend the proposed rule to clarify possession as follows:

- We object to the proposed wording in Section 8. (d): "The possession limit does not apply to a wild animal that is processed and stored at an

individual's primary residence, except for waterfowl and migratory game birds."

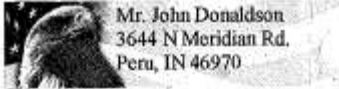
- We recommend the currently proposed wording be replaced with the following in Section 8. (d): "The possession limit applies to all wild animals that have been processed and stored at an individual's primary residence, including waterfowl and migratory game birds."

To redefine possession to be when the game is processed and stored at an individual's primary residence is a dramatic change and counter to common sense conservation and an ethic on consumptive use of wildlife that has been in Indiana for decades. Localized populations of fish and game could be greatly harmed by this change. A few specific examples of particular concern to the Indiana Wildlife Federation are Northern Bobwhite Quail and Ruffed Grouse. These are two of only three native game birds in Indiana. Both are under constant pressure due to habitat loss and fragmentation. The Ruffed Grouse populations in particular are dropping below viable levels statewide and may be extirpated if actions to better manage the remaining populations are not taken. The Indiana Department of Natural Resources has taken sound management steps such as shortening seasons for quail and grouse and decreasing bag limits to support their sustainability as game birds. To liberalize the possession definition is inconsistent with the proper management of these species.

Thank you for considering the suggested changes to the definition of possession restrictions.

Respectfully submitted,

Barbara Simpson



Feedback from P. u meeting.

Dec 7 2011

Rule changes concerning possession limits.

section 5 E & F

F-1 I feel that having to tag the animal is too restrictive. Example - If hunting by myself its obvious that the animal was taken by me. No need for tagging.

There may be a time in the field when a tag or container is not available.

F2 as we hunt during the day, the number & species can be constantly changing. What a hassle trying to update while in the field; cold hands - rain - snow.

F3 The date is obvious. Most hunters don't carry game in their vehicles the from the previous day.

I think some of these rules are too technical. We need to encourage hunters, not have an obscure rule that they can be fined for.

Thanks for listening to our input.

RS. Remember, without more hunters we won't need as many people doing enforcement work - less jobs for you.

FILED

DEC 07 2011

NATURAL RESOURCES COMMISSION
DIVISION OF HEARINGS

EXHIBIT C

DNR Response

The purpose of the amendments to 312 IAC 9-2-8 are to clearly define the possession restrictions of wild animals where a bag limit is established and at what point those legally taken wild animals no longer count towards the possession limit. The DNR routinely gets questions about whether or not the possession limit applies to parts of fish or other game in the freezer (legs, filets) or if last year's game that was legally harvested the previous year and still in the freezer still count towards the possession limit during the current year's season. Hunters and anglers want to know if they have two times the daily bag limit (the possession limit) in their freezer if they can hunt/fish for that species again that same season or if they need to eat it, give it away or otherwise dispose of it to be in compliance with the possession limit. The results of a survey of DNR conservation officers indicated that there were different interpretations and sometimes conflicting opinions being delivered to the public of what was considered to be included in the possession limit. Other states were also contacted and several of them have already made similar changes in their laws. This has also become a topic on internet sites where the possession limit is being debated between hunters and anglers as to whether or not they are in violation for having too many filets or squirrels (or other game) in the freezer. The primary tools for management of fish and wildlife populations are the bag limit, not the limit to the number of carcasses in an individual's freezer.

The possession limit has always been two times the daily bag limit, and that is not being changed. Right now, if a hunter took the bag limit of gray squirrels in each of the first two days of the squirrel season, he/she could not legally take another gray squirrel that season until the hunter ate, gave away, or otherwise disposed of the squirrels in possession. In other words, the hunters' ability to eat or get rid of the game would be regulated. Even fish filets wrapped in a freezer could be considered to be possession. With this change, each hunter could possess no more than ten (10) unprocessed fox squirrels, but once the squirrels are skinned, cut, wrapped, and placed in the freezer at the person's permanent residence (home), an unlimited number of processed fox squirrels could be possessed.

Additionally, if the possession limit were extended to the freezer, one can get around it quite easily by gifting the animals to each and every individual in the home, the neighbor, relatives, or feed to the dogs, or even throw them out. Bag limits, not carcasses in a freezer, are the tools for managing wildlife populations and can be changed if needed to further protect the population. Since hunting season dates and bag limits are set forth in administrative rule, the DNR would not be able to change these by county, but the DNR Director does have the ability to sign a temporary rule that could change a season date or bag limit if an emergency exists in order to protect the resource.

The DNR does not believe that migratory birds should be included in 312 IAC 9-2-8 (d) for wild animals that are processed and stored in an individual's primary residence because of the ongoing controversy with the federal interpretation of the possession limit. At this time, we feel it would be too problematic to have state and/or federal laws that contradict each other on these particular species.

Regarding the tagging requirement, currently, a wild animal (including game birds) that has a bag limit, other than wild turkeys and deer, must be tagged if it is gifted to another person. These requirements have been in place for a number of years in 312 IAC 9-2-8. A tag is required in order determine who took the animal when it is given to someone who may already have obtained the possession limit for that species or to someone who does not hunt and therefore, could not show proof that it was obtained lawfully when questioned. With the changes that we have proposed, the tagging requirements would become less restrictive than they are now. A tag will not be needed while in the field hunting (such as in a game bag carried by the person hunting) or in the immediate vicinity of the person while in the field (such as at a central point in the field), or after processing (such as cut, wrapped and frozen). The person who hunts quail or squirrels, for example, and drives from one location to another and leaves the game in the truck unattended will need to mark the container or bag in which the game is kept (such as marking a ziploc bag). This should not be difficult for the hunter and makes it easy to identify who took the animal. These requirements on the tag are needed to provide documentation, particularly when an individual hunts or fishes multiple days on a trip away from his/her primary residence where game are not stored permanently.

EXHIBIT D

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule

LSA Document #11-470F

DIGEST

Amends 312 IAC 9-1-12 to specify possession of live and dead wild animals. Adds 312 IAC 9-1-12.1 to define "possession limit". Adds 312 IAC 9-1-12.5 to define "primary residence". Adds 312 IAC 9-1-12.6 to define "processed". Amends 312 IAC 9-2-8 by adding the term possession limit and exempting white-tailed deer and wild turkeys. Amends 312 IAC 9-4-7.5 governing the possession limit for nonmigratory gamebirds. Amends 312 IAC 9-5-6 to establish a taking period for collecting reptiles and amphibians from the wild and to establish a limit to the number that can be taken from the wild and possessed each year, including those that are kept alive. Effective 30 days after filing with the Publisher.

312 IAC 9-1-12; 312 IAC 9-1-12.1; 312 IAC 9-1-12.5; 312 IAC 9-1-12.6; 312 IAC 9-2-8; 312 IAC 9-4-7.5; 312 IAC 9-5-6

SECTION 1. 312 IAC 9-1-12 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-1-12 "Possession" defined

Authority: IC 14-11-2-1; IC 14-22-2-6

Affected: IC 14-22

Sec. 12. "Possession" means to:

(1) have direct physical control or ~~to~~ knowingly have the power and the intention to exercise dominion or control **over wild animals that are not alive; and**

(2) **knowingly have the power and intention of keeping a live wild animal in captivity where it cannot escape into the wild.**

(Natural Resources Commission; 312 IAC 9-1-12; filed May 12, 1997, 10:00 a.m.: 20 IR 2699; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA)

SECTION 2. 312 IAC 9-1-12.1 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-1-12.1 "Possession limit" defined

Authority: IC 14-11-2-1; IC 14-22-2-6

Affected: IC 14-22

Sec. 12.1. "Possession limit" means twice the daily bag limit of a wild animal.

(Natural Resources Commission; 312 IAC 9-1-12.1)

SECTION 3. 312 IAC 9-1-12.5 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-1-12.5 "Primary residence" defined

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22

Sec. 12.5. "Primary residence" means an individual's principal or ordinary habitation used as a home or dwelling for a fixed or indefinite period of time. The term does not include temporary or transient lodging used during a:

- (1) hunting;**
- (2) fishing;**
- (3) pleasure;**
- (4) recreation; or**
- (5) business;**

trip or other temporary purpose. (Natural Resources Commission; 312 IAC 9-1-12.5)

SECTION 4. 312 IAC 9-1-12.6 IS ADDED TO READ AS FOLLOWS:

312 IAC 9-1-12.6 "Processed" defined

Authority: IC 14-10-2-4; IC 14-22-2-6

Affected: IC 14-22

Sec. 12.6. "Processed" means wild animals that have been:

- (1) cut, wrapped, and frozen;**
- (2) dried;**
- (3) smoked;**
- (4) canned (in tins or jars);**
- (5) vacuum packed; or**
- (6) otherwise preserved for long term storage and later consumption.**

(Natural Resources Commission; 312 IAC 9-1-12.6)

SECTION 5. 312 IAC 9-2-8 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-2-8 Possession restrictions

Authority: IC 14-22-2-6

Affected: IC 14-22

Sec. 8. ~~(a) An individual must not:~~

- ~~(1) possess;~~**
- ~~(2) ship;~~**
- ~~(3) carry; or~~**
- ~~(4) transport;~~**

~~more than two (2) times the daily bag limit of a wild animal after the beginning of the second day of the season established to take that wild animal.~~

~~(b)~~ (a) An individual must not take more than the daily bag limit of a wild animal in a calendar day.

(b) An individual may carry the carcass of a wild animal for another individual while in the field or transporting from the field if the individual who took the wild animal is present.

(c) An individual must not:

- (1) possess;
- (2) ship;
- (3) carry; or
- (4) transport;

more than the possession limit of a wild animal after the beginning of the second day of the season established to take that wild animal unless the wild animal is tagged in accordance with subsection (f) or (g).

(d) The possession limit does not apply to a wild animal that is processed and stored at an individual's primary residence, except for waterfowl and migratory game birds.

(e) An individual who lawfully takes a wild animal may give to another individual one (1) or more carcasses of a wild animal, with no compensation of any kind.

~~(e) An individual~~ (f) A wild animal that is gifted, left unattended while in the field, or not in the immediate vicinity of the individual who took the wild animal while in the field must have a tag a wild animal with attached or be in a container or bag that has the following information: if the individual does not maintain possession of the animal that he or she has taken:

- (1) The individual's name and address of the individual who took the animal.
- (2) The total number and species of wild animals taken.
- (3) The date the wild animal was taken.
- (4) The signature of the individual who took the animal.
- ~~(d)~~ (g) Notwithstanding subsection ~~(e)~~, (f), an individual must tag a:
 - (1) white-tailed deer in accordance with section 3 of this rule; 312 IAC 9-3-2; and
 - (2) wild turkey in accordance with 312 IAC 9-4-11.

(Natural Resources Commission; 312 IAC 9-2-8; filed May 12, 1997, 10:00 a.m.: 20 IR 2701; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA; filed Mar 12, 2010, 1:28 p.m.: 20100407-IR-312090479FRA)

SECTION 6. 312 IAC 9-4-7.5 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-4-7.5 General requirements for nonmigratory game birds

Authority: IC 14-22-2-6

Affected: IC 14-22

Sec. 7.5. (a) An individual must not possess the carcass or parts of a ring-necked pheasant (*Phasianus colchicus*), northern bobwhite quail (*Colinus virginianus*), ruffed grouse (*Bonasa umbellus*), or wild turkey (*Meleagris gallopavo*) unless that ~~person~~ individual lawfully took that species:

- (1) during the season established for that species in this rule;

- (2) with a scientific purposes license under 312 IAC 9-10-6; or
- (3) with a special purpose salvage permit under 312 IAC 9-10-13.5.

(b) Notwithstanding subsection (a), an individual who lawfully takes a game bird listed under this section may give to another individual one (1) or more carcasses or parts of these game birds, with no compensation of any kind. A game bird that is gifted must have a tag attached that contains the following information:

- (1) The ~~hunter's~~ name and address **of the individual who took the bird.**
- (2) The total number and species of birds taken.
- (3) The date the birds were taken.
- (4) The signature of the hunter who took the birds.

(c) A carcass of a game bird listed under this section may be possessed by any of the following:

- (1) The individual who lawfully took the bird during the season established for that bird.
- (2) An individual who received the carcass under subsection (b).
- (3) An individual with a valid taxidermy license under IC 14-22-21 and 312 IAC 9-10-5.
- (4) An individual with a valid scientific purposes license under 312 IAC 9-10-6.
- (5) An individual with a valid nuisance wild animal control permit under 312 IAC 9-10-11.
- (6) An individual with a valid special purpose salvage permit under 312 IAC 9-10-13.5.

(d) A person may possess live northern bobwhite quail or ring-necked pheasants only:

- (1) with a game breeder license under IC 14-22-20 and 312 IAC 9-10-4;
- (2) with a dog training ground permit under 312 IAC 9-10-16 for a period of less than five (5) consecutive days only;
- (3) with a private shooting preserve license under IC 14-22-31;
- (4) with a scientific purposes license under 312 IAC 9-10-6;
- (5) with a wild animal rehabilitation permit under 312 IAC 9-10-9; or
- (6) if purchased from a licensed game breeder and released into the wild within five (5) days of taking possession of the birds.

(e) An individual must not hunt any of the following species unless the individual wears hunter orange:

- (1) Ring-necked pheasants (*Phasianus colchicus*).
- (2) Northern bobwhite quail (*Colinus virginianus*).
- (3) Ruffed grouse (*Bonasa umbellus*).

(f) A person must not sell northern bobwhite quail or ring-necked pheasants, including their eggs, except under a valid game breeder license under IC 14-22-20 and 312 IAC 9-10-4.

(g) A person must not sell ruffed grouse or wild turkeys, including their eggs.

(h) A person must not possess ruffed grouse or wild turkeys, including their eggs, except under one (1) of the following:

- (1) A wild animal rehabilitation permit under 312 IAC 9-10-9.

- (2) A scientific purposes license under 312 IAC 9-10-6.
- (3) A special purpose salvage permit under 312 IAC 9-10-13.5.
- (4) A taxidermy license under IC 14-22-21 and 312 IAC 9-10-5.

(i) An individual must not:

- (1) possess;
- (2) ship;
- (3) carry; or
- (4) transport;

more than ~~two (2) times the daily bag~~ **possession** limit of **a carcass of** a game bird listed under this section after the beginning of the second day of the season established to take that bird in this rule.

(j) An individual may take, possess, and sell a species of quail, pheasant, or partridge that is not:

- (1) an endangered species; or
- (2) a species listed in subsection (a);

at any time without a license from the department. (*Natural Resources Commission; 312 IAC 9-4-7.5; filed Mar 12, 2010, 1:28 p.m.:20100407-IR-312090479FRA*)

SECTION 7. 312 IAC 9-5-6 IS AMENDED TO READ AS FOLLOWS:

312 IAC 9-5-6 Collection and possession of reptiles and amphibians native to Indiana

Authority: IC 14-22

Affected: IC 14-22

Sec. 6. (a) An individual may take reptiles or amphibians from the wild only as authorized under this section.

(b) Except as provided in this section, an individual must not take ~~or possess~~ **more than two (2) per day and not** more than four (4) **from April 1 through March 31 of the following year** of any **one (1)** species of reptile or amphibian native to Indiana.

(c) ~~Notwithstanding subsection (b),~~ An individual may take not more than twenty-five (25) of the following species of turtles per day, singly or in aggregate:

- (1) Eastern snapping turtle (*Chelydra serpentina serpentina*).
- (2) Smooth softshell turtle (*Apalone mutica*).
- (3) Spiny softshell turtle (*Apalone spinifera*).

~~An individual may possess not more than fifty (50) turtles listed in this subsection, singly or in aggregate.~~

(d) ~~Notwithstanding subsection (b),~~ An individual may take not more than twenty-five (25) of the following species of frogs **per day**, singly or in aggregate:

- (1) American bullfrog (*Lithobates catesbeianus*).
- (2) Green frog (*Lithobates clamitans*).

~~An individual may possess not more than fifty (50) frogs listed in this subsection, singly or in aggregate.~~

(e) An individual must not possess more than four (4) live reptiles or amphibians of any one (1) species native to Indiana except:

- (1) as authorized in subsections (c) and (d);**
- (2) with a turtle possession permit under section 11 of this rule;**
- (3) with a wild animal rehabilitation permit under 312 IAC 9-10-9;**
- (4) with a scientific purposes license under 312 IAC 9-10-6; or**
- (5) with a wild animal possession permit under 312 IAC 9-11.**

~~(e)~~ **(f)** An individual may take turtles at any time of the year.

~~(f)~~ **(g)** An individual may take frogs as established in subsection (d) from June 15 through April 30 of the following year.

~~(g)~~ **(h)** An individual may take turtles by any of the following methods:

- (1) A trap, a net, or another mechanical device that has no opening below the surface of the water.
- (2) Hands.
- (3) A gaff.
- (4) Any method provided by 312 IAC 9-7-2 for sport fishing.

~~(h)~~ **(i)** An individual may take frogs by any of the following methods:

- (1) A gig or spear having a head not more than three (3) inches wide and a single row of tines.
- (2) A bow and arrows.
- (3) A club.
- (4) Hands.
- (5) A single pole or hand line with not more than one (1) hook or artificial lure affixed.
- (6) A .22 caliber firearm, as long as the projectiles discharged from the barrel of the firearm are birdshot.

~~(i)~~ **(j)** An individual may use:

- (1) a spotlight;
- (2) a searchlight; or
- (3) another artificial light;

to assist in taking frogs.

~~(j)~~ **(k)** Notwithstanding ~~subsection (e)~~, **subsections (b) through (d)**, An individual must not take the following from the wild:

- (1) A reptile or amphibian egg.
- (2) An eastern box turtle (*Terrapene carolina*).
- (3) An endangered species of reptile or amphibian.**

~~(k)~~ **(l)** An individual must not sell a reptile or amphibian ~~taken from the wild~~, except for the following:

- (1) A reptile or amphibian lawfully possessed and fitted with a passive integrated transponder under section 9(h) of this rule.
- (2) A bullfrog or green frog tadpole in accordance with section 7(g) of this rule.

~~(h)~~ **(m)** An individual must not sell the offspring of an amphibian taken under this section.

~~(m)~~ **(n)** An individual possessing a valid reptile captive breeder license issued under section 9 of this rule may sell the offspring of a species of snake listed in section 9 of this rule, taken under this section, to any person.

~~(n)~~ **(o)** An individual must not release back into the wild a reptile or amphibian taken from the wild under this section except as follows:

- (1) A reptile or amphibian may be released without a permit issued under subdivision (2) if the reptile or amphibian:
 - (A) has not been held in an enclosure with another reptile or amphibian;
 - (B) has not been in captivity for more than thirty (30) days; and
 - (C) is released at the point of capture.
- (2) The division issues a permit to an individual to release an animal, and the individual releases the animal under the terms of the permit.

~~(o)~~ **(p)** An individual may possess a live eastern box turtle only with a:

- (1) turtle possession permit under section 11 of this rule;
- (2) wild animal rehabilitation permit under 312 IAC 9-10-9; or
- (3) scientific purposes license under 312 IAC 9-10-6.

~~(p)~~ **(q)** An individual may possess a live endangered species of reptile or amphibian only with a:

- (1) wild animal possession permit under 312 IAC 9-11;
- (2) wild animal rehabilitation permit under 312 IAC 9-10-9; or
- (3) scientific purposes license under 312 IAC 9-10-6.

~~(q)~~ **(r)** An individual may possess a live venomous reptile only with a:

- (1) wild animal possession permit under 312 IAC 9-11; or
- (2) scientific purposes license under 312 IAC 9-10-6.

(Natural Resources Commission; 312 IAC 9-5-6; filed Jul 9, 1999, 5:55 p.m.: 22 IR 3672; readopted filed Jul 28, 2003, 12:00 p.m.: 27 IR 286; filed Sep 23, 2004, 3:00 p.m.: 28 IR 543; readopted filed Nov 24, 2008, 11:08 a.m.: 20081210-IR-312080672RFA; filed Jul 6, 2010, 1:55 p.m.: 20100804-IR-312090616FRA; errata filed Sep 1, 2010, 11:08 a.m.: 20100915-IR-312100567ACA)